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Epstein, Drangel,
Bazerman & James, LLP
60 East 42nd Street, Suite 820
New York, NY 10165

In re Application of	:	
Cevik	:	
Application No. 10/506,586	:	DECISION ON
PCT No.: PCT/IB02/00615	:	
Int. Filing Date: 01 March 2002	:	PETITION UNDER
Priority Date: NONE	:	
Atty. Docket No.: 1861-100US	:	37 CFR 1.10(d)
For: A Method And An Apparatus	:	
For Automatic Ironing	:	

This is in response to the "Petition Under 37 CFR 1.181 To Obtain Correct Filing Date Under 37 CFR 1.10(d)" filed on 20 September 2005.

BACKGROUND

This international application was filed on 01 March 2002, claimed no earlier priority date, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 12 September 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 01 September 2004.

On 08 March 2005, a Notification of Acceptance (Form PCT/DO/EO/903) was mailed to applicants, indicating that the date of this application under 35 U.S.C. 371(c)(1), (2) and (4) was 02 September 2004.

DISCUSSION

Petitioner "hereby submits that the U.S. National Phase application was effectively filed on September 1, 2004. The application was filed via the United States Postal Service 'Express Mail' service, and was deposited directly with an employee in advance of the last regularly scheduled pick-up... However, the USPS employee omitted the 'date-in'." Petitioner requests "that the application be accorded a filing date of September 1, 2004." 37 CFR 1.10(d) provides that

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

- (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
- (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
- (3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The instant petition satisfies 37 CFR 1.10(d)(1).

The instant petition satisfies 37 CFR 1.10(d)(2) because Express Mail mailing label EV034246541US was placed on the second page of the Transmittal Letter included among the correspondence in question.

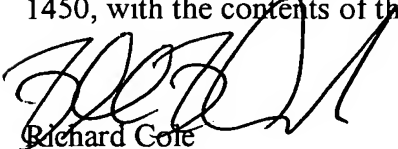
Regarding 37 CFR 1.10(d)(3), counsel refers to a "copy of receipt, enclosed, with postmark showing both date in, September 1, 2004, and Post Office of receipt - Grand Central Post Office, zip 10017." No copy of such a receipt appears to be present in the application file. The USPS "Track & Confirm" Web site corresponding to the instant "Express Mail" label number indicates "Acceptance, September 02, 2004, 11:50 am, NEW YORK, NY 10199." Based on the evidence currently of record, it would not be appropriate to consider the requirements of 37 CFR 1.10(d)(3) to have been satisfied.

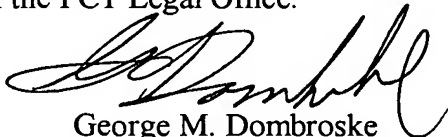
CONCLUSION

The petition is **DISMISSED**, without prejudice.

Since the evidence of record indicates that the basic national fee was not filed until 02 September 2004, this application is **ABANDONED** with respect to the national stage in the United States for failure to timely pay the basic national fee. Accordingly, the Notice of Acceptance (Form PCT/DO/EO/903) mailed on 08 March 2005 is hereby **VACATED**.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, P.O. Box 1450, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.


Richard Cole
PCT Legal Examiner
PCT Legal Office


George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459